

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

NOELLE ROSELYN AIPPERSPACH, as)	
Personal Representative of the Estate of)	
MAHIR S. AL-HAKIM, deceased,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:11-CV-01225-W-DGK
)	
PATRICK McINERNEY, et al.,)	
)	
Defendants.)	

**JUDGMENT APPROVING SETTLEMENT WITH SEPARATE DEFENDANTS
CITY OF PLATTE WOODS, MISSOURI, LARRY CORY AND WILLIAM D. BABBITT**

NOW on this 22nd day of January, 2013, the above-captioned and numbered cause comes before the Court on the Motion For Approval of Settlement With Separate Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt. Plaintiff Noelle Roselyn Aipperspach appears in person and through her counsel of record, Robert Sullivan. Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt appear by and through their counsel of record, Matthew J. Gist.

Plaintiff and Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt have advised the Court that, subject to the approval of the Court, they have settled and compromised all claims made or which could have been made by Plaintiff against Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt relating to or arising out of the March 18, 2010, death of Mahir Al-Hakim. Plaintiff and Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt each hereby expressly waive a jury trial and each

stipulates to submit all issues contained within the Motion For Approval of Settlement to the Court for determination. The Court has approved the waiver of a jury trial.

The parties thereafter presented evidence to the Court. After reviewing the evidence, hearing the arguments of counsel and being duly advised, the Court makes the following findings:

1. That Plaintiff Noelle Roselyn Aipperspach and Mahir Al-Hakim [deceased] are the natural children of Gayle Tenny Thorpe and Hussein Al-Hakim. Ms. Thorpe and Hussein Al-Hakim are both deceased.

2. That Plaintiff Noelle Roselyn Aipperspach is the adult surviving sister of decedent Mahir Al-Hakim.

3. That decedent Mahir Al-Hakim was born in 1980 and died on March 18, 2010. Mahir Al-Hakim was never married and had no children. To date, no probate estate has been opened for Mahir Al-Hakim.

4. That Kimberley Williams, Rebecca Arbuckle, Bonnie Arbuckle and Sunshine Arbuckle are the natural daughters of Gayle Tenny Thorpe and Clarence Arbuckle; and that Kimberley Williams, Rebecca Arbuckle, Bonnie Arbuckle and Sunshine Arbuckle are the adult half-sisters of decedent Mahir Al-Hakim.

5. That beyond Kimberley Williams, Rebecca Arbuckle, Bonnie Arbuckle, Sunshine Arbuckle and Plaintiff Noelle Roselyn Aipperspach, there are no other individuals in the class of persons entitled to bring an action for damages for the wrongful death of decedent Mahir Al-Hakim as defined within § 537.080 R.S.Mo.

6. That Plaintiff's causes of action in this matter against Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt are for wrongful death brought pursuant to § 537.080 R.S.Mo, as well as for purported violations of 42 U.S.C. §1983.

7. That decedent Mahir Al-Hakim died on March 18, 2010, in Riverside, Platte County, Missouri, as the result of multiple gunshot wounds.

8. That Plaintiff Noelle Roselyn Aipperspach, on behalf of all heirs at-law of decedent Mahir Al-Hakim, has alleged that Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt participated in a purported use of excessive force against Mahir Al-Hakim on March 10, 2010, and that the death of Mahir Al-Hakim was caused or contributed to be caused by the alleged willful, intentional and reckless actions of Defendant William D. Babbitt.

9. That Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt have and continue to deny any and all liability in this matter. While Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt have and continue to deny any and all liability in this matter, Plaintiff Noelle Aipperspach has agreed to compromise and fully settle all claims made or which could have been made by Plaintiff against Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt in any way arising from or in any way connected with the death of Mahir Al-Hakim in exchange for a one-time payment of Fifteen Thousand Five Hundred and no/100 Dollars (\$15,000.00). This is a separate settlement with Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt and this settlement will have no impact upon Plaintiff's remaining claims asserted against all other Defendants.

10. That Plaintiff Noelle Roselyn Aipperspach has accepted the settlement offer made by Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt and Plaintiff Noelle Aipperspach has requested that that this Court enter an order approving and authorizing that settlement agreement pursuant to § 537.095 R.S.Mo. Plaintiff Noelle Aipperspach likewise has requested that this Court enter an order apportioning the Fifteen Thousand and no/100 (\$15,000.00) settlement proceeds as set forth further below.

11. That Plaintiff Noelle Aipperspach has entered into a contract with her counsel [Sullivan Morgan & Chronic LLC] and has requested that reimbursement of case expenses incurred by her counsel in the prosecution of this matter be approved by this Court as being fair and reasonable, and that the law firm of Sullivan Morgan & Chronic LLC receive reimbursement of case expenses in the amount of Eleven Thousand Two Hundred Fifty and no/100 Dollars (\$11,250.00) from the proceeds of this separate settlement.

12. Pursuant to §§ 537.080 and 537.095 R.S.Mo., Plaintiff Noelle Aipperspach has requested that a fair, reasonable and just apportionment of the Fifteen Thousand and no/100 (\$15,000.00) settlement proceeds in question be as follows:

- a. To plaintiff Noelle Aipperspach [decedent's sister] the total combined sum of Seven Hundred Fifty and no/100 Dollars (\$750.00);
- b. To Kimberly Williams [decedent's sister] the total combined sum of Seven Hundred Fifty and no/100 Dollars (\$750.00);
- c. To Bonnie Arbuckle [decedent's sister] the total combined sum of Seven Hundred Fifty and no/100 Dollars (\$750.00);
- d. To Sunshine Arbuckle [decedent's sister] the total combined sum of Seven Hundred Fifty and no/100 Dollars (\$750.00);
- e. To Rebecca Arbuckle [decedent's sister] the total combined sum of Seven Hundred Fifty and no/100 Dollars (\$750.00);

f. To the law firm of Sullivan Morgan & Chronic LLC the total amount of Eleven Thousand Two Hundred Fifty and no/100 Dollars (\$11,250.00) for incurred case expenses. The evidence and testimony shows that the law firm of Sullivan Morgan & Chronic LLC does not and will not ever make any claim for attorney fees against any portion of this settlement agreement between Plaintiff and Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt.

The Court finds that the Eleven Thousand Two Hundred Fifty and no/100 Dollars (\$11,250.00) in case expenses claimed by the law firm of Sullivan organ & Chronic LLC against the involved settlement proceeds are fair and reasonable, and the Court approves the payment of those case expenses from the involved Fifteen Thousand and no/100 Dollars (\$15,000.00) settlement proceeds. The Court further finds that the requested apportionment of the remaining Three Thousand Seven Hundred Fifty and no/100 Dollars (\$3,750.00) settlement proceeds is fair, reasonable and is approved by the Court.

IT IS THEREFORE ORDERED, ADJUGED AND DECREED as follows:

a. The proposed separate settlement between Plaintiff and Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt in the total combined sum of Fifteen Thousand Five Hundred and no/100 Dollars (\$15,000.00) is fair and reasonable, and is hereby approved.

b. Under Missouri law, Kimberley Williams, Rebecca Arbuckle, Bonnie Arbuckle, Sunshine Arbuckle and Plaintiff Noelle Aipperspach are the only persons entitled to bring an action for the wrongful death of Mahir Al-Hakim pursuant to § 537.095 R.S.Mo. Further, Kimberley Williams, Rebecca Arbuckle, Bonnie Arbuckle, Sunshine Arbuckle and Plaintiff Noelle Aipperspach are the only individuals entitled under the law of Missouri to share in the apportionment of this settlement.

c. Pursuant to § 537.095 R.S.Mo., all persons entitled to bring an action for the wrongful death of Mahir Al-Hakim have had an opportunity to join in this action and this

separate settlement, and Plaintiff Noelle Aipperspach has exercised due diligence in providing written notification to all such persons concerning the hearing on this Motion For Approval of Settlement With Separate Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt.

d. The Fifteen Thousand and no/100 Dollars (\$15,000.00) settlement proceeds shall be apportioned as follows:

1. Plaintiff Noelle Aipperspach [decedent's sister]: \$750.00;
2. Kimberly Williams [decedent's sister]: \$750.00;
3. Bonnie Arbuckle [decedent's sister]: \$750.00;
4. Sunshine Arbuckle [decedent's sister]: \$750.00;
5. Rebecca Arbuckle [decedent's sister]: \$750.00;
6. The law firm of Sullivan Morgan & Chronic LLC for incurred case expenses: \$11,250.00.

e. Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt are to immediately pay the single-combined sum of Fifteen Thousand and no/100 Dollars (\$15,000.00) settlement proceeds jointly to Noelle Aipperspach and the Sullivan Morgan & Chronic LLC trust account, and Plaintiff Noelle Aipperspach is ordered to execute and file a written receipt for these settlement proceeds along with a written satisfaction of the involved settlement proceeds. The Court further directs the law firm of Sullivan Morgan & Chronic LLC to distribute the settlement proceeds pursuant to the aforementioned findings and orders of the Court.

f. Plaintiff is ordered to execute the Separate Settlement Agreement and Release in favor of Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt [including all of their agents, representatives, servants, employees and officials] releasing them

from any and all liability, claims, demands, actions and causes of action in any way related to or arising from the death of Mahir Al-Hakim. This Separate Settlement Agreement and Release is specifically found by the Court to not have any impact on Plaintiff's remaining claims against the remaining Defendants.

g. Plaintiff shall file a stipulation for dismissal with prejudice as to Defendants City of Platte Woods, Missouri, Larry Cory and William D. Babbitt.

IT IS SO ORDERED.

Dated: January 22, 2013

/s/ Greg Kays
GREG KAYS
UNITED STATES DISTRICT JUDGE